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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

NATIONAL SECURITY AND
INTERNATIONAL AFFAIRS DIVISION

B-215075

10 AUG 1984

JUN 11 1984

The Honorable William D. Ford
Chairman, Committee on Post Office
and Civil Service
House of Representatives

Dear Mr. Chairman:

Subject: Polygraph and Prepublication Review Policies of Federal Agencies (GAO/NSIAD-84-135)

The April 4, 1984, letter from you and the Chairman, Committee on Government Operations, requested that we assist the committees in their on-going efforts examining the effects of National Security Decision Directive -84 (NSDD-84). (See encl. V.)

On April 23, 1984, you and Chairman Brooks sent a questionnaire to those agencies and offices that handle classified information. The major purpose of the questionnaire was to determine the effect of the two provisions of NSDD-84 that require (1) all individuals with sensitive compartmented information (SCI) access to sign a nondisclosure agreement containing a prepublication review requirement and (2) all agencies to revise existing policies and regulations as necessary so that employees could be required to submit to a polygraph examination during the course of an investigation of an unauthorized disclosure of classified information.

Most of the information you requested from the agencies is included in summary form in enclosure I. It includes actual figures as well as estimated figures where data were not readily available. As agreed with your office, we did not verify the information reported by the agencies, but we did request clarification in many cases.

Agencies were asked to respond to the questionnaire within 15 days. By June 5, however, (six weeks after your request) eight agencies and offices had not responded; therefore, data pertaining to them is not included in the information contained in this report. The eight are: the U.S. Arms Control and

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Disarmament Agency, Department of Energy, Environmental Protection Agency, Interstate Commerce Commission, Department of Justice, Office of Management and Budget, U.S. Trade Representative, and the Executive Office of the President. Forty-three agencies responded to the questionnaire, including a partial response of the Department of the Treasury. We counted the Department of Defense, including the military services, as one response. This report does not include data on the National Security Agency and Central Intelligence Agency because of the sensitivity of their operations.

The following sections summarize information relative to prepublication review requirements, unauthorized disclosures of classified information, and polygraph examinations.

Prepublication Review Requirements

Most agency employees who had access to sensitive compartmented information (SCI), already had signed nondisclosure agreements (Form 4193 or a form similar thereto) with the prepublication review requirement before the President suspended indefinitely that provision of NSDD-84 on February 15, 1984. Twenty-three agencies reported that, as of December 31, 1983, 119,000 of their employees had SCI access and almost all had signed the agreements which contain the lifetime prepublication review requirement. An unknown number of former employees also had signed the agreements. The Department of Defense estimated that, of 156,000 military and civilian employees who had signed agreements, about 45,000 were former employees and employees reassigned to duties not requiring SCI access.

It is also possible that employees working on other than SCI special access programs had signed agreements similar to those used for SCI access. According to Executive Order 12356, which took effect August 1, 1982, an agency head may create a special access program when (1) normal management and safeguarding procedures do not limit access sufficiently and (2) the number of persons with access is limited to the minimum necessary to meet the objective of providing extra protection of the information. At the end of calendar year 1983, there were about 100 non-SCI special access programs, compared to about 30 in 1979. Agencies reported that 27,500 government employees and 21,600 contractor employees were involved in non-SCI special access programs. (See encl. II).

The Federal Emergency Management Agency told us that a prepublication review requirement is part of the agreement that individuals must sign for access to two of its special access programs. (At the present time, however, those subject to this provision may delete that section of the agreement pertinent to prepublication review). We do not know how many more special access programs may contain similar prepublication review requirements.

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Twelve agencies indicated that, regardless of whether they have SCI access, employees must comply with prepublication review requirements. In most cases, however, agencies do not require employees to sign nondisclosure agreements as part of these prepublication review requirements. Further, the requirements imposed by these regulations do not apply to former employees. (See encl. III.)

Unauthorized Disclosures of Classified Information

Four agencies (the Departments of Commerce, Defense, and State, and the Nuclear Regulatory Commission) reported having 43 unauthorized disclosures of classified information during calendar year 1983. One was made through a published writing or speech (by a then-current employee of a contractor). None were made by former employees through published writings or speeches.

Polygraph Examinations

Nine agencies told us that their employees were given 11,178 polygraph examinations in calendar year 1983, and four of the nine employed a total of 131 polygraph operators (see encl. IV). Of these agencies, the Department of Defense employed 123 polygraph operators and gave 10,502 examinations. Practically all examinations given by the other agencies were given in connection with criminal or specific-incident investigations. The General Services Administration and Postal Service have regulations that limit the voluntary use of the polygraph to criminal investigations.

The number of pre-access screening examinations given by the Department of Defense in 1981, 1982, and 1983 were as follows:

	1981	1982	1983
Total number of polygraph examinations	6,556	8,657	10,502
Examinations for pre-access screening	45	1,176	3,105

The pre-access screening examinations given in 1983 include about 3,000 examinations that are part of an Air Force program testing the use of the polygraph.

When asked about plans to employ additional polygraph operators, Defense stated that it plans to hire 50 additional operators, and that these operators would permit an additional 10,000 screening type examinations annually.

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Although the Department of Justice did not respond in time for inclusion of its data in this report, we understand that Justice and the Department of the Treasury also use the polygraph for pre-access screening.

The Federal Emergency Management Agency stated that, although it did not employ polygraph operators or have a contract for polygraph service, it had plans to institute polygraph screening examinations in connection with two of its non-SCI special access programs. However, the Agency said that it was holding in abeyance a final decision on its plans, pending resolution of the legal issues involving use of the polygraph.

The Tennessee Valley Authority, which had been using the polygraph in connection with criminal investigations, told us that it was discontinuing all polygraph use.

Copies of this report are being sent to all agencies that provided information and to other interested parties upon request.

Sincerely yours,

Frank C Conahan

Frank C. Conahan
Director

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ENCLOSURE I

Responses to Questions Of The
House Committee on Government Operations
And The
House Committee on Post Office and Civil Service

(All 51 executive branch agencies that handle classified information were queried; however, 8 did not respond. The responses from the remaining 43 are included below).

QUESTION 1

Approximately how many full- and part-time people were employed by the federal government as of December 31, 1983?

RESPONSE

In the 43 agencies that responded, there were 5,025,580 federal civilian and military personnel.

QUESTION 2

Approximately how many federal employees and contractor employees had security clearances as of December 31, 1983?

RESPONSE

There were about 2.6 million federal and 1.3 million contractor employees, of the 43 responding agencies, with security clearances at the levels shown below.

Level of clearance	Federal employees	Contractor employees
Top Secret	517,578	111,912
Secret	2,129,557	904,540
Confidential	33,286	304,852
Total	2,680,421	1,321,304

Of the total number of federal employees--5,025,580, about 10 percent had top secret clearances and 42 percent had secret clearances.

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ENCLOSURE I

QUESTION 3

How many federal and contractor employees had access to Sensitive Compartmented Information (SCI) as of December 31, 1983?

RESPONSE

There were a total of 118,899 federal employees and 11,041 contractor employees with SCI access.

QUESTION 4

Do agencies consider SCI to be a special access program? Under what authority?

RESPONSE

Eighteen agencies considered SCI to be a special access program. They cited the following authorities:

--Executive Order 12356
--The Director of Central Intelligence
--National Security Decision Directive -84
--Director of Central Intelligence Directive 1/14

QUESTION 5

How many agencies have special access programs as authorized under Executive Order 12356 or similar programs under some other authority?

RESPONSE

Six agencies had special access programs or participated in such programs of other agencies.

QUESTION 6

How many agencies used the polygraph during calendar year 1983?

RESPONSE

Nine agencies used the polygraph or had their employees take polygraph examinations administered by other agencies in calendar year 1983.

QUESTION 7

How many polygraph operators did agencies employ as of December 31, 1983, and how many operators did they have under contract?

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RESPONSE

As of December 31, 1983, four agencies employed a total of 131 polygraph operators, and had 2 under contract.

QUESTION 8

Do agencies expect to hire or contract for additional polygraph operators? How many and why?

RESPONSE

The Department of Defense expects to hire an additional 50 examiners in order to conduct 10,000 more screening polygraph examinations.

The Postal Service expects to hire 3 more polygraph operators. This is to improve turnaround time on examinations and reduce operator workload.

QUESTION 9

How many polygraph machines did agencies own as of December 31, 1983? How many did they procure during calendar year 1983, and how many more do they expect to procure?

RESPONSE

Four agencies owned a total of 256 polygraph machines as of December 31, 1983. They procured 2 of these during calendar year 1983. They expect to procure 30 more polygraph machines in the future.

QUESTION 10

Why were polygraph examinations of agency employees conducted? How many of these examinations were conducted of agency employees for calendar years 1979 through 1983? How many were conducted by the agency and how many were conducted by other agencies or by contractors?

RESPONSE

The following tabulation shows the number of polygraph examinations given to employees of the nine agencies for various reasons during calendar years 1979 through 1983:

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ENCLOSURE I

	1979	1980	1981	1982	1983
Criminal or Specific incident investigations					
Conducted by agency	6,697	7,256	6,909	7,802	7,657
Conducted by other agencies or contractors	4	8	16	27	34
Pre-employment screening					
Conducted by agency	13	18	13	28	16
Conducted by other agencies or contractors	0	0	0	0	1
Pre-access screening					
Conducted by agency	65	53	45	1,176	3,105
Conducted by other agencies or contractors	0	0	0	0	3
Subsequent screening					
Conducted by agency	0	0	0	0	0
Conducted by other agencies or contractors	0	0	2	2	1
Other					
Conducted by agency	242	271	302	298	361
Conducted by other agencies or contractors	0	0	0	0	0
Total	7,021	7,606	7,287	9,333	11,178

QUESTION 11

How many agencies require employees to submit to any prepublication review procedure (other than to review official statements on behalf of the agency)? How many employees do these procedures cover?

RESPONSE

Twelve agencies required their employees to submit to prepublication review. Prepublication review procedures cover 3,423,418 agency employees.

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QUESTION 12

For each calendar year since 1979, how many books, articles, speeches, and other materials were reviewed during the prepublication review process?

RESPONSE

The following tabulations show the types and quantities of information reviewed during calendar years 1979 through 1983. Separate tabulations are shown for the Department of Defense (DOD) and the other respondents because DOD combined books and articles and because the Department of the Army responded in number of pages reviewed for 1982 and 1983.

The Department of Defense

	1979	1980	1981	1982	1983
Books/Articles	2,994	3,133	2,784	6,457	10,088
Speeches	1,320	1,360	871	2,237	2,020
Other	4,816	4,344	5,178	4,713	5,102
No. of pages--Army				92,918	77,404

Other 11 Respondents

	1979	1980	1981	1982	1983
Books	18	22	19	17	34
Articles	4,754	4,774	4,814	5,363	5,461
Speeches	11	50	43	352	365
Other	5,013	5,018	5,009	5,371	5,294

QUESTION 13

What was the average number of working days that elapsed from the date of receipt of a request for prepublication review of a document to the date that the requestor was informed of the final results?

RESPONSE

The 12 agencies reported the following range of time (in days) for the prepublication review process:

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	Number of days
Books	2 to 20
Articles	1 to 11
Speeches	2 to 10
Others	4 to 8

QUESTION 14

During calendar year 1983, approximately how many employees were assigned and how many working days were used for prepublication reviews?

RESPONSE

Responding agencies assigned a total of about 211 full-time employees and used 5,268 working days for prepublication reviews.

QUESTION 15

How many unauthorized disclosures of classified information were there during calendar year 1983? How many of these were not reported to the Department of Justice?

RESPONSE

Four agencies reported 43 unauthorized disclosures of classified information. Of these, 34 were not reported to the Department of Justice.

QUESTION 16

How many unauthorized disclosures of classified information were made through books, articles, or speeches, written by then-current employees or former employees during calendar year 1983?

RESPONSE

One of the 43 identified in question 15 was made through a speech or publication by a then-current employee of a contractor.

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ENCLOSURE II

Employees with Clearances, SCI Access, and Non-SCI Access

	TOTAL	DEFENSE	STATE	TREASURY	INTERIOR	NASA	FEMA	OTHER AGENCIES
Number of agency employees	5,025,580	3,317,086	24,016	124,287	74,482	22,000	2,357	1,461,352
Level of Clearance:								
Agency employees:								
Top secret	517,578	480,360	13,938	6,871	596	523	1,726	13,564
Secret	2,129,557	2,066,643	733	2,993	1,658	15,706	572	41,252
Confidential	33,286	28,160	0	274	104	719	0	4,029
Contractor employees:								
Top secret	111,912	111,000	0	183	0	0	400	329
Secret	904,540	900,000	0	0	3	0	250	4,287
Confidential	304,852	304,800	0	0	0	0	0	52
SCI access:								
Agency employees	118,899	111,167	4,350	1,733	229	280	199	941
Contractor employees	11,041	10,808	200	2	0	29	1	1
Employees assigned to non-SCI special access programs:								
Agency employees	27,530	26,559	0	0	0	0	904	67
Contractor employees	21,587	21,250	0	0	0	0	337	0

ENCLOSURE II

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Agencies Involved in Prepublication Review

		Defense	State	NASA	TVA	USIA	AID	SEC	Fed. Reserve	Overseas Private Investment Corp.
No. of employees covered by agency directive		All	All	All	All	All	All	All	All	All
Quantity of material reviewed in 1983:	Books	10,088[a]	10	15	0	5	1	2	1	0
	Articles		269	4,500	600	24	15	7	45	1
	Speeches	2,020	14	0	280	33	30	8	0	0
	Other	5,102[b]	0	5,000	0	0	60	36	0	0
	No. of pages	77,404								
1982:	Books	6,457[a]	1	15	0	1	0	0	0	0
	Articles		202	4,500	600	15	35	10	0	1
	Speeches	2,237	8	0	280	25	30	9	0	0
	Other	4,713	0	5,000	0	0	101	27	0	0
	No. of pages	92,918[b]								
No. of employees assigned to prepublication review		80	86	0	40	2	1	1	1	1
No. of working days used for prepublication review		4,459	205	100	55	8	5	10	-	1
Average no. of working days used for each type of material:										
	Books	17.8	20	10	0	10	2	20	10	0
	Articles	10.7	10	10	3	2	3	10	3	1
	Speeches	5.3	5	10	3	2	3	5	0	0
	Other	5.2	0	10	0	0	4	8	0	0

[a]Defense's response combined books and articles
[b]The Department of the Army responded in number of pages reviewed.

Note: Three agencies—the Department of Education, Peace Corps and the Federal Emergency Management Agency—reported having prepublication review requirements but did not report any activity.

ENCLOSURE III

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Polygraph Use by Nine Agencies

		TOTAL	Dept. of Defense	Dept. of Trans.	Tenn. Valley Auth.	Dept. of Labor	Fed. Res. System	Dept. of State	Postal Service	Dept. of Comm.	General Services Admin.
Agencies using polygraph	1983	9	yes	yes	yes	yes	yes	yes	yes	yes	yes
	1982	8[a]	yes	yes	yes	no	no	no	yes	no	yes
Types of examinations:											
Criminal or specific incident	1983	7691	7028	6	14	7	2	5	623	2	4
	1982	7829	7155	14	7	5	0	0	645	0	3
	1981	6925	6196	6	3	2	0	5	711	1	1
Pre-access screening	1983	3108	3105	0	0	0	0	2	0	1	0
	1982	1176	1176	0	0	0	0	0	0	0	0
	1981	45	45	0	0	0	0	0	0	0	0
Agency polygraph operators	1983	131	123	0	0	2	0	0	6	0	0
	1982	194	112	0	0	0	0	0	6	0	0
Agency polygraph machines:											
owned as of December 31,	1983	256	238	0	0	2	0	0	16	0	0
purchased in	1983	2	2	0	0	0	0	0	0	0	0

Agency plans:

1. The Department of Defense anticipates hiring 50 additional polygraph operators to permit 10,000 screening type examinations.
2. The Postal Service expects to hire 3 additional operators.
3. The Federal Emergency Management Agency plans to institute polygraph examinations in the future, but the final decision is pending until legal issues involving the use of the polygraph are resolved.
4. The Tennessee Valley Authority does not anticipate using the polygraph in the future.

[a]Includes the Departments of Justice and Treasury, as reported to us last year. Current information concerning polygraph use by these agencies was not received in time for inclusion in the chart.

ENCLOSURE IV

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ENCLOSURE V

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NINETY-EIGHTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT OPERATIONS

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, D.C. 20515

April 4, 1984

The Honorable Charles A. Bowsher
Comptroller General
General Accounting Office
Washington, D.C. 20548

Dear General:

In January, H.R. 4681, the Federal Polygraph Limitation and Anti-Censorship Act of 1984, was introduced and referred to the Post Office and Civil Service Committee where it is now under active consideration. This bill is a comprehensive response to the Administration's polygraph and censorship policies, both the National Security Directive 84, issued by the President, and those designed and implemented independently at the agency level.

Recently, the President announced his intention to suspend the polygraph and prepublication censorship portions of his National Security Directive through this session of Congress. The effects, however, of this suspension on the polygraph and censorship policies which were not contained in the President's Directive are not clear. In order that this legislation be properly evaluated, it is necessary that Congress be fully apprised of the effects, if any, the suspension of the President's National Security Directive 84 has on the current polygraph and prepublication censorship policies in effect at the agencies of the Federal Government and on any proposed changes in those policies contemplated at this time.

To this end we request that the General Accounting Office update its survey of the Federal agencies conducted in preparation for hearings held last October by the Government Operations committee on these issues. Along with this update, it is requested that the GAO also make broader inquiry into the current use of polygraphs and prepublication censorship requirements by the agencies, any proposed changes in those policies and their likely effects, and the effect, if any, the President's suspension of his NSD 84 has on those current or proposed policies.

It is important that this investigation be given prompt attention. Congressional moritoriums on proposed changes to the Department of Defense's polygraph regulations and certain prepublication censorship requirements will expire on April 15. It is, therefore, hoped that you will find it possible to devote maximum staff resources in this effort. Thank you very much for your attention to this request. With every good wish, we are

Sincerely,

WILLIAM D. FORD, Chairman
Committee on the Post Office and
Civil Service

JACK BROOKS, Chairman
Committee on Government Operations

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